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MEMORANDUM FOR: Deputy Director (Administration)

SUBJECT: Executive Order 10450

1. Executive Order 10450, dated 27 April 1953, relating to security requirements for government employment and the sample security regulations prepared by the Attorney General have been studied by this office. It is noted that this Agency is primarily affected by those provisions of Executive Order 10450 which abolish Executive Order 9835, including the Loyalty Board procedures thereunder, and which substitute in its place a review procedure provided for in the Act of 26 August 1950, 64 Stat. 476 (5 U. S. C. 22-1, et seq.) and the sample regulations.

2. It appears that the parts of the new review procedures which are objectionable from the standpoint of the security of this Agency are those which require: (1) a hearing by a board composed of employees of other agencies; (2) a right of the employee to counsel; (3) the privilege to cross-examine witnesses; (4) a right to receive a copy of the transcript of the hearing; and (5) the requirement for notification to the Civil Service Commission of all investigations conducted by this Agency.

3. Insofar as the latter objection is concerned, suitable arrangements with the Civil Service Commission will be made by this office in conjunction with the General Counsel's office similar to those presently in existence under Executive Order 9835, whereby this Agency is not required to furnish specific information to the Civil Service Commission on investigations conducted by the Agency.

4. With regard to the authority granted the Director of Central Intelligence under Section 102 (c) of the National Security Act of 1947 (P. L. 253 - 80th Congress), whereby he may, in his discretion, terminate the employment of any CIA employee whenever he deems such termination necessary or advisable in the interests of the United States; it is believed that such authority is in no way impaired by the new Executive Order. It is believed, however, that, inasmuch as the new Executive Order applies to all government agencies, this Agency should follow the provisions of the Order whenever possible without endangering our security.

5. In view of the above, it is recommended that the following procedures be adopted:

a. In applicant cases the procedures outlined in the sample regulations be followed in those cases which technically

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fall under the provisions of the new Executive Order. (An applicant whose services are needed by the Agency may have at one time been a member of an organization subsequently declared subversive by the Attorney General. In order to resolve this matter, the case should be handled under the provisions of the new Executive Order. This procedure serves as a protection to both the individual involved and the Agency.)

b. In cases involving employees who have not completed their probationary period, the new Executive Order be used. (Such cases do not require a board hearing.)

c. In cases involving employees who have completed their probationary period and are employed in such sensitive positions that a board hearing would necessarily reveal sensitive operational information, the procedures established for the Employment Review Board under Public Law 253 be followed.

d. In cases involving employees who have completed their probationary period and are employed in positions such as chauffeurs, clerks, etc., where a board hearing would not necessitate the divulgence of sensitive operational information, the procedures of the new Executive Order be used.

e. That generally consistent with the above, the Security Office be authorized to make the determination as to the advisability of using one procedure in place of the other.

6. It is noted that in the sample regulations prepared by the Attorney General provisions for suspension and termination are made applicable only in those cases involving questions of loyalty. In those cases involving questions of security, it is recommended that applicant cases be processed by security disapproval as at present; that cases of probationary employees be processed under the new procedures; and that cases of full employees be processed under Public Law 253. This procedure will give the employee the benefit of a hearing before the Director exercises his dismissal authority.

7. As a result of Executive Order 10450, it will be necessary to rescind CIA Regulation Number [redacted] pertaining to the CIA Loyalty Board and loyalty adjudication procedures and establish in its place a new regulation adopting procedures applicable to the new Executive Order. It will also be necessary for the Director of Central Intelligence to designate those positions in the Agency considered to be sensitive. In this regard, it is recommended that all positions in the Agency, other than those of overseas indigenous personnel of FUIB, who do not have access to classified information, be designated as sensitive positions.

8. It is noted that other than the above, the following actions must be taken in order to conform to the new procedures:

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a. An unspecified number of Agency officers or employees must be nominated and certified to the Civil Service Commission to serve on boards of other departments and agencies.

b. All cases heard under Executive Order 9835 are to be reviewed and those cases not adjudicated under security standards commensurate with the standards under the new procedures are to be submitted for re-adjudication. Insofar as this requirement is concerned, this office will take such action as is necessary.

9. It is further recommended that a representative of the Security Office be authorized to be present at board hearings under the new procedure, in addition to the legal officer as is provided for by the sample regulations.

SIGNED

Sheffield Edwards
Colonel, GSC
Director of Security